## 1AC

### New ME War Card

Middle East war causes extinction

Nassar 2 (Bahig, Arab Coordinating Centre of Non-Governmental Organizations, paper for Cordoba Dialogue on Peace and Human Rights in Europe and the Middle East)

Wars in the Middle East are of a new type. Formerly, the possession of nuclear weapons by the United States and the Soviet Union had prevented them, under the balance of the nuclear terror, from launching war against each other. In the Middle East, the possession of nuclear weapons and other weapons of mass destruction leads to military clashes and wars. Instead of eliminating weapons of mass destruction, the United States and Israel are using military force to prevent others from acquiring them, while they insist on maintaining their own weapons to pose deadly threats to other nations. But the production, proliferation and threat or use of weapons of mass destruction (nuclear chemical and biological) are among the major global problems which could lead, if left unchecked, to the extinction of life on earth. Different from the limited character of former wars, the current wars in the Middle East manipulate global problems and escalate their dangers instead of solving them.

## 2AC

### Solv

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

### Terror

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

### 2AC – T

#### 1. We meet – we prohibit the President’s ability to act without judicial review

John C. Eastman 6, Prof of Law at Chapman University, PhD in Government from the Claremont Graduate University, served as the Director of Congressional & Public Affairs at the United States Commission on Civil Rights during the Reagan administration, “Be Very Wary of Restricting President's Power,” Feb 21 2006, http://www.claremont.org/publications/pubid.467/pub\_detail.asp]

Prof. Epstein challenges the president's claim of inherent power by noting that the word "power" does not appear in the Commander in Chief clause, but the word "command," fairly implied in the noun "Commander," is a more-than-adequate substitute for "power." Was it really necessary for the drafters of the Constitution to say that the president shall have the power to command? Moreover, Prof. Epstein ignores completely the first clause of Article II -- the Vesting clause, which provides quite clearly that "The executive Power shall be vested in a President." The relevant inquiry is whether those who ratified the Constitution understood these powers to include interception of enemy communications in time of war without the permission of a judge, and on this there is really no doubt; they clearly did, which means that Congress cannot restrict the president's authority by mere statute.¶ Prof. Epstein's own description of the Commander in Chief clause recognizes this. One of the "critical functions" performed by the clause, he notes, is that "Congress cannot circumvent the president's position as commander in chief by assigning any of his responsibilities to anyone else." Yet FISA does precisely that, assigning to the FISA court a core command authority, namely, the ability to authorize interception of enemy communications. This authority has been exercised by every wartime president since George Washington.

#### That’s a war powers authority

Edward Keynes 10, Professor of Political Science at The Pennsylvania State University and has been visiting professor at the universities of Cologne, Kiel, and Marburg. A University of Wisconsin Ph.D., he has been a Fulbright and an Alexander von Humboldt fellow, “Undeclared War: Twilight Zone of Constitutional Power”, Google Books, p. 119-120

Despite numerous cases challenging the President’s authority to initiate and conduct the Vietnam War, the Federal courts exhibited extreme caution in entering this twilight zone of constitutional power. The federal judiciary’s reluctance to decide war-powers controversies reveals a respect for the constitutional separation of powers, an appreciation of the respective constitutional functions of Congress and the President in external affairs, and a sense of judicial self-restraint. Although most Federal courts exercised self-restraint, several courts scaled such procedural barriers as jurisdiction, standing to sue, sovereign immunity, and the political question to address the scope of congressional and presidential power to initiate war and military hostilities without a declaration of war. The latter decisions reveal an appreciation of the constitutional equilibrium upon which the separation of powers and the rule of law rest. Despite judicial caution, several Federal courts entered the political thicket in order to restore the constitutional balance between Congress and the President. Toward the end of the war in Indochina, judicial concern for the rule of law recommended intervention rather than self-restraint.

#### 2. C/I – Authority is what the president may do not what the president can do

Ellen Taylor 96, 21 Del. J. Corp. L. 870 (1996), Hein Online

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### 3. Prefer it

#### SP A) Aff ground – only process-based affs can beat the executive CP and ex ante review is illegal

Bloomberg 13, Bloomberg Editorial Board, Feb 18 2013, “Why a ‘Drone Court’ Won’t Work,” http://www.bloomberg.com/news/2013-02-18/why-a-drone-court-won-t-work.html

As for the balance of powers, that is where we dive into constitutional hot water. Constitutional scholars agree that the president is sworn to use his “defensive power” to protect the U.S. and its citizens from any serious threat, and nothing in the Constitution gives Congress or the judiciary a right to stay his hand. It also presents a slippery slope: If a judge can call off a drone strike, can he also nix a raid such as the one that killed Osama bin Laden? If the other branches want to scrutinize the president’s national security decisions in this way, they can only do so retrospectively.

### 2AC – Security

#### 2. Threats aren’t arbitrary – can’t throw out security

Knudsen 1 Olav. F. Knudsen, Prof @ Södertörn Univ College, ‘1 [Security Dialogue 32.3, “Post-Copenhagen Security Studies: Desecuritizing  Securitization,” p. 360]

In the post-Cold War period,  agenda-setting has been much easier to influence than the securitization approach assumes. That change cannot be credited to the concept; the change in  security politics was already taking place in defense ministries and parlia-  ments before the concept was first launched. Indeed, securitization in my view  is more appropriate to the security politics of the Cold War years than to the  post-Cold War period.  Moreover, I have a problem with the underlying implication that it is unim-  portant whether states ‘really’ face dangers from other states or groups. In the  Copenhagen school, threats are seen as coming mainly from the actors’ own  fears, or from what happens when the fears of individuals turn into paranoid  political action. In my view, this emphasis on the subjective is a misleading  conception of threat, in that it discounts an independent existence for what-  ever is perceived as a threat. Granted, political life is often marked by misper-  ceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenom-  ena do not occur simultaneously to large numbers of politicians, and hardly most of the time. During the Cold War, threats – in the sense of plausible  possibilities of danger – referred to ‘real’ phenomena, and they refer to ‘real’  phenomena now. The objects referred to are often not the same, but that is a  different matter. Threats have to be dealt with both in terms of perceptions and in  terms of the phenomena which are perceived to be threatening.  The point of Wæver’s concept of security is not the potential existence of  danger somewhere but the use of the word itself by political elites. In his 1997  PhD dissertation, he writes, ‘One can view “security” as that which is in  language theory called a speech act: it is not interesting as a sign referring to  something more real – it is the utterance itself that is the act.’   The deliberate  disregard of objective factors is even more explicitly stated in Buzan & Wæver’s joint article of the same year.   As a consequence, the phenomenon of  threat is reduced to a matter of pure domestic politics.   It seems to me that the  security dilemma, as a central notion in security studies, then loses its founda-  tion. Yet I see that Wæver himself has no compunction about referring to the  security dilemma in a recent article.  This discounting of the objective aspect of threats shifts security studies to  insignificant concerns. What has long made ‘threats’ and ‘threat perceptions’  important phenomena in the study of IR is the implication that urgent action  may be required. Urgency, of course, is where Wæver first began his argu-  ment in favor of an alternative security conception, because a convincing sense  of urgency has been the chief culprit behind the abuse of ‘security’ and the  consequent ‘politics of panic’, as Wæver aptly calls it.   Now, here – in the case  of urgency – another baby is thrown out with the Wæverian bathwater. When  real situations of urgency arise, those situations are challenges to democracy;  they are actually at the core of the problematic arising with the process of  making security policy in parliamentary democracy. But in Wæver’s world,  threats are merely more or less persuasive, and the claim of urgency is just an-  other argument. I hold that instead of ‘abolishing’ threatening phenomena  ‘out there’ by reconceptualizing them, as Wæver does, we should continue  paying attention to them, because situations with a credible claim to urgency  will keep coming back and then we need to know more about how they work  in the interrelations of groups and states (such as civil wars, for instance), not  least to find adequate democratic procedures for dealing with them.

#### 4. Perm do the plan and rethink security logic ­– K alone insufficient

Bilgin THEIR AUHTOR 5 Pinar Bilgin, Prof. of IR @ Bilkent Univ, ‘5 [Regional Security in The Middle East, p. 60-1]

Admittedly, providing a critique of existing approaches to security, revealing those hidden assumptions and normative projects embedded in Cold War Security Studies, is only a first step. In other words, from a critical security perspective, self-reflection, thinking and writing are not enough in themselves. They should be compounded by other forms of practice (that is, action taken on the ground). It is indeed crucial for students of critical approaches to re-think security in both theory and practice by pointing to possibilities for change immanent in world politics and suggesting emancipatory practices if it is going to fulfil the promise of becoming a 'force of change' in world politics. Cognisant of the need to find and suggest alternative practices to meet a broadened security agenda without adopting militarised or zero-sum thinking and practices, students of critical approaches to security have suggested the imagining, creation and nurturing of security communities as emancipatory practices (Booth 1994a; Booth and Vale 1997). Although Devetak's approach to the theory/practice relationship echoes critical approaches' conception of theory as a form of practice, the latter seeks to go further in shaping global practices. The distinction Booth makes between 'thinking about thinking' and 'thinking about doing' grasps the difference between the two. Booth (1997: 114) writes: Thinking about thinking is important, but, more urgently, so is thinking about doing .... Abstract ideas about emancipation will not suffice: it is important for Critical Security Studies to engage with the real by suggesting policies, agents, and sites of change, to help humankind, in whole and in part, to move away from its structural wrongs. In this sense, providing a critique of existing approaches to security, revealing those hidden assumptions and normative projects embedded in Cold War Security Studies, is only a first (albeit crucial) step. It is vital for the students of critical approaches to re-think security in both theory and practice.

#### 6. Rejecting security destroys the potential for freedom and value to life

Booth 5 Ken Booth, Prof. of IR @ Wales, ‘5 [Critical Security Studies and World Politics, p. 22]

The best starting point for conceptualizing security lies in the real conditions of insecurity suffered by people and collectivities. Look around. What is immediately striking is that some degree of insecurity, as a life determining condition, is universal. To the extent an individual or group is insecure, to that extent their life choices and chances are taken away; this is because of the resources and energy they need to invest in seeking safety from domineering threats - whether these are the lack of food for one’s children or organizing to resist a foreign aggressor. The corollary of the relationship between insecurity and a determined life is that a degree of security creates life possibilities. Security might therefore be conceived as synonymous with opening up space in people’s lives. This allows for individual and collective human becoming - the capacity to have some choice about living differently - consistent with the same but different search by others. Two interrelated conclusions follow from this. First, security can be understood as an instrumental value; it frees its possessors to a greater or lesser extent from life-determining constraints and so allows different life possibilities to be explored. Second, security is synonymous simply with survival. One can survive without being secure (the experience of refugees in long-term camps in war-torn parts of the world, for example). Security is therefore more than mere animal survival (basic animal existence). It is survival-plus, the plus being the possibility to explore human becoming, As an instrumental value, security is sought because it frees people(s) to some degree to do other than deal with threats to their human being. The achievement of a level of security - and security is always relative - gives to individuals and groups some time, energy, and scope to chose to be or become, other than merely survival as human biological organisms. Security is an important dimension of the process by which the human species can reinvent itself beyond the merely biological.

7. Alternative fails

Gunning 7 (Jeroen Gunning, Lecturer in International Politics @ Univ. of Wales, ‘7 [Government and Opposition 42.3, “A Case for Critical Terrorism Studies?” p. Blackwell-synergy])

The notion of emancipation also crystallizes the need for policy engagement. For, unless a ‘critical’ field seeks to be policy relevant, which, as Cox rightly observes, means **combining** ‘critical’ and ‘problem-solving’ approaches, it does not fulfil its ‘emancipatory’ potential.94 One of the temptations of ‘critical’ approaches is to remain mired in critique and deconstruction without moving beyond this to reconstruction and policy relevance.Vital as such critiques are, the challenge of a critically constituted field is also to engage with policy makers – and ‘terrorists’ – and work towards the realization of new paradigms, new practices, and a transformation, however modestly, of political structures. That, after all, is the original meaning of the notion of ‘immanent critique’ that has historically underpinned the ‘critical’ project and which, in Booth's words, involves ‘the discovery of the latent potentials in situations on which to build political and social progress’, as opposed to putting forward utopian arguments that are not realizable. Or, as Booth wryly observes, ‘this means building with one's feet **firmly on the ground**, not constructing castles in the air’ and asking ‘what it means for real people in real places’.96 Rather than simply critiquing the status quo, or noting the problems that come from an un-problematized acceptance of the state, a ‘critical’ approach must, in my view, also concern itself with offering concrete alternatives. Even while historicizing the state and oppositional violence, and challenging the state's role in reproducing oppositional violence, it must wrestle with the fact that ‘the concept of the modern state and sovereignty embodies a coherent response to many of the central problems of political life’, and in particular to ‘the place of violence in political life’. Even while ‘de-essentializing and deconstructing claims about security’, it must concern itself with ‘how security is to be redefined’, and in particular on what theoretical basis.97 Whether because those critical of the status quo are wary of becoming co-opted by the structures of power (and their emphasis on instrumental rationality),98 or because policy makers have, for obvious reasons (including the failure of many ‘critical’ scholars to offer policy relevant advice), a greater affinity with ‘traditional’ scholars, the role of ‘expert adviser’ is more often than not filled by ‘traditional’ scholars.99 The result is that policy makers **are insufficiently challenged to question** the basis of their policies and develop new policies based on immanent critiques. A notable exception is the readiness of European Union officials to enlist the services of both ‘traditional’ and ‘critical’ scholars to advise the EU on how better to understand processes of radicalization.100 But this would have been impossible if more critically oriented scholars such as Horgan and Silke had not been ready to cooperate with the EU. Striving to be policy relevant does not mean that one has to accept the validity of the term ‘terrorism’ or stop investigating the political interests behind it. Nor does it mean that each piece of research must have policy relevance or that one has to limit one's research to what is relevant for the state, since the ‘critical turn’ implies a move beyond state-centric perspectives. End-users could, and should, thus include both state and non-state actors such as the Foreign Office and the Muslim Council of Britain and Hizb ut-Tahrir; the Northern Ireland Office and the IRA and the Ulster Unionists; the Israeli government and Hamas and Fatah (as long as the overarching principle is to reduce the political use of terror, whoever the perpetrator). It does mean, though, that a critically constituted field must work hard to bring together all the fragmented voices from beyond the ‘terrorism field’, to maximize both the field's rigour and its policy relevance. Whether a critically constituted ‘terrorism studies’ will attract the fragmented voices from outside the field depends largely on how broadly the term ‘critical’ is defined. Those who assume ‘critical’ to mean ‘Critical Theory’ or ‘poststructuralist’ may not feel comfortable identifying with it if they do not themselves subscribe to such a narrowly defined ‘critical’ approach. Rather, to maximize its inclusiveness, I would follow Williams and Krause's approach to ‘critical security studies’, which they define simply as bringing together ‘many perspectives that have been considered outside of the mainstream of the discipline’.101 This means refraining from establishing new criteria of inclusion/exclusion beyond the (normative) expectation that scholars self-reflexively question their conceptual framework, the origins of this framework, their methodologies and dichotomies; and that they historicize both the state and ‘terrorism’, and consider the security and context of all, which implies among other things an attempt at empathy and cross-cultural understanding.102 Anything more normative would limit the ability of such a field to create a genuinely interdisciplinary, non-partisan and innovative framework, and exclude valuable insights borne of a broadly ‘critical’ approach, such as those from conflict resolution studies who, despite working within a ‘traditional’ framework, offer important insights by moving beyond a narrow military understanding of security to a broader understanding of human security and placing violence in its wider social context.103 Thus, a poststructuralist has no greater claim to be part of this ‘critical’ field than a realist who looks beyond the state at the interaction between the violent group and their wider social constituency.104

#### 9. Legal reforms restrain the cycle of violence and prevent error replication

Colm O’Cinneide 8, Senior Lecturer in Law at University College London, “Strapped to the Mast: The Siren Song of Dreadful Necessity, the United Kingdom Human Rights Act and the Terrorist Threat,” Ch 15 in Fresh Perspectives on the ‘War on Terror,’ ed. Miriam Gani and Penelope Mathew, <http://epress.anu.edu.au/war_terror/mobile_devices/ch15s07.html>

This ‘symbiotic’ relationship between counter-terrorism measures and political violence, and the apparently inevitable negative impact of the use of emergency powers upon ‘target’ communities, would indicate that it makes sense to be very cautious in the use of such powers. However, the impact on individuals and ‘target’ communities can be too easily disregarded when set against the apparent demands of the greater good. Justice Jackson’s famous quote in Terminiello v Chicago [111] that the United States Bill of Rights should not be turned into a ‘suicide pact’ has considerable resonance in times of crisis, and often is used as a catch-all response to the ‘bleatings’ of civil libertarians.[112] The structural factors discussed above that appear to drive the response of successive UK governments to terrorist acts seem to invariably result in a depressing repetition of mistakes.¶ However, certain legal processes appear to have some capacity to slow down the excesses of the counter-terrorism cycle. What is becoming apparent in the UK context since 9/11 is that there are factors at play this time round that were not in play in the early years of the Northern Irish crisis. A series of parliamentary, judicial and transnational mechanisms are now in place that appear to have some moderate ‘dampening’ effect on the application of emergency powers.¶ This phrase ‘dampening’ is borrowed from Campbell and Connolly, who have recently suggested that law can play a ‘dampening’ role on the progression of the counter-terrorism cycle before it reaches its end. Legal processes can provide an avenue of political opportunity and mobilisation in their own right, whereby the ‘relatively autonomous’ framework of a legal system can be used to moderate the impact of the cycle of repression and backlash. They also suggest that this ‘dampening’ effect can ‘re-frame’ conflicts in a manner that shifts perceptions about the need for the use of violence or extreme state repression.[113] State responses that have been subject to this dampening effect may have more legitimacy and generate less repression: the need for mobilisation in response may therefore also be diluted.

### 2AC – CP

#### CP can’t solve rule of law

Taylor 13

Paul Taylor, Senior Research Fellow @ Center for Policy & Research, “Former DOD Lawyer Frowns on Drone Court”, 3/23/13, http://transparentpolicy.org/2013/03/former-dod-lawyer-frowns-on-drone-court/ //jchen

Johnson also notes that even the determination of the facts is fraught with problems. The first three of Holder’s criteria for the legality of a targeted killing operation, feasibility of capture, imminence of threat, and senior leadership in an enemy organization, are time-sensitive determinations. Feasibility, Johnson notes from personal experience, can change several times in one night. That imminence may change over time is obvious to anyone with a dictionary. And while a target’s position as a senior leader in al-Qaeda is unlikely to change very often, it does on occasion (take the case of Mokhtar Belmokhtar). Requiring a court to determine these facts in advance would also require that the executive would have to notify the court when any change has occurred that might effect that determination. Meanwhile, use of ex post review would allow the court to look at a single point in time, when the executive “pulled the trigger” on the operation, thus crystallizing the facts and obviating this problem.

The last of the Holder criteria, too, causes problems. This criterion requires that the operation be executed in compliance with the law of war. Of course, this is capable of determination only after the fact. Thus, no ex ante review will be able to determine if this requirement is satisfied. An ex post review, however, could.

#### Ex ante review rubber stamps wrongful targeted killings and lends false legitimacy

Vladeck 13

Steve Vladeck is a professor of law and the associate dean for scholarship at American University Washington College of Law, 2/10/13, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…”, http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/ //jchen

III. Drone Courts and the Legitimacy Problem

That brings me to perhaps the biggest problem we should all have with a “drone court”–the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges to sign off even on those cases in which they have doubts.

As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses ex ante. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons–when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true in advance. At its core, that’s why the analogy to search warrants utterly breaks down–and why it would hardly be surprising if judges in those circumstances approved a far greater percentage of applications than they might have on a complete after-the-fact record.

MARK

Judges, after all, are humans.

In the process, the result would be that such ex ante review would do little other than to add legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante revew in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.

#### Ex Post review solves best – increases legitimacy and accountability, plus the courts have expertise

Jaffer 13

Jameel Jaffer, human rights and civil liberties attorney who is deputy legal director of the ACLU, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings”, 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php //jchen

Second, judicial engagement with the targeted killing program does not actually require the establishment of a new court. In a case pending before Judge Rosemary Collyer of the District Court for the District of Columbia, the ACLU and the Center for Constitutional Rights represent the estates of the three U.S. citizens whom the CIA and JSOC killed in Yemen in 2011. The complaint, brought under Bivens v. Six Unknown Named Agents, seeks to hold senior executive officials liable for conduct that allegedly violated the Fourth and Fifth Amendments. It asks the court to articulate the limits of the government’s legal authority and to assess whether those limits were honored. In other words, the complaint asks the court to conduct the kind of review that many now seem to agree that courts should conduct.

This kind of review—ex post review in the context of a Bivens action—could clarify the relevant legal framework in the same way that review by a specialized court could. But it also has many advantages over the kind of review that would likely take place in a specialized court. In a Bivens action, the proceedings are adversarial rather than ex parte, increasing their procedural legitimacy and improving their substantive accuracy.

MARK

 Hearings are open to the public, at least presumptively. The court can focus on events that have already transpired rather than events that might or might not transpire in the future. And a Bivens action can also provide a kind of accountability that could not be supplied by a specialized court reviewing contemplated strikes ex ante: redress for family members of people killed unlawfully, and civil liability for officials whose conduct in approving or carrying out the strike violated the Constitution. (Of course, in one profound sense a Bivens action will always come too late, because the strike alleged to be unlawful will already have been carried out. Again, though, if “imminence” is a requirement, ex ante judicial review is infeasible by definition.)

Another advantage of the Bivens model is that the courts are already familiar with it. The courts quite commonly adjudicate wrongful death claims and “survival” claims brought by family members of individuals killed by law enforcement agents. In the national security context, federal courts are now accustomed to considering habeas petitions filed by individuals detained at Guantánamo. They opine on the scope of the government’s legal authority and they assess the sufficiency of the government’s evidence — the same tasks they would perform in the context of suits challenging the lawfulness of targeted killings. While Congress could of course affirm or strengthen the courts’ authority to review the lawfulness of targeted killings if it chose to do so, or legislatively narrow some of the judicially created doctrines that have precluded courts from reaching the merits in some Bivens suits, more than 40 years of Supreme Court precedent since Bivens makes clear that federal courts have not only the authority to hear after-the-fact claims brought by individuals whose constitutional rights have been infringed but also the obligation to do so.

Proponents of a specialized targeted killing court are right to recognize that the judiciary has a crucial role to play in articulating and enforcing legal limits on the government’s use of lethal force. Congress need not establish a new court, however, in order for the judiciary to do what the Constitution already empowers and obliges it to do.

### 2AC – Immigration [Econ]

#### 1. Economic decline doesn’t cause war.

Jervis 11 [Robert, Adlai E. Stevenson Professor of International Politics in the Department of Political Science, and a Member of the Arnold A. Saltzman Institute of War and Peace Studies at Columbia University. Force in Our Times Saltzman Working Paper No. 15 July 2011 http://www.siwps.com/news.attachment/saltzmanworkingpaper15-842/SaltzmanWorkingPaper15.PDF]

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy, and bring back old-fashioned beggar-thy-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a pre-existing high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

#### 2. Drone funding restriction thumps

Miller 1/15 [Greg, Washington Post, Lawmakers seek to stymie plan to shift control of drone campaign from CIA to Pentagon By Greg Miller, Published: January 15 E-mail the writer]

Congress has moved to block President Obama’s plan to shift control of the U.S. drone campaign from the CIA to the Defense Department, inserting a secret provision in the massive government spending bill introduced this week that would preserve the spy agency’s role in lethal counterterrorism operations, U.S. officials said. The measure, included in a classified annex to the $1.1 trillion federal budget plan, would restrict the use of any funding to transfer unmanned aircraft or the authority to carry out drone strikes from the CIA to the Pentagon, officials said. The provision represents an unusually direct intervention by lawmakers into the way covert operations are run, impeding an administration plan aimed at returning the CIA’s focus to traditional intelligence gathering and possibly bringing more transparency to drone strikes.

#### 4. No immigration – House won’t move.

Rodgers 1/16 [Alex, Time Don’t Be Fooled, It’s Gridlock Time in Washington]

Run down the list of issues, and the cause for pessimism is clear. The Senate last year passed comprehensive immigration reform with the support of 14 Republicans, establishing a 13-year pathway to citizenship for millions for immigrants in the country illegally. But the measure remains dead in the House—the GOP majority will release a set of principles this year, but as National Journal reports, “it will not include any concrete proposal.” A Republican member from Texas spoke up at the party’s weekly luncheon Tuesday only to declare that it was his favorite meeting yet because no one mentioned immigration, a House aide present told TIME. The immigration reform effort has turned from policy to politics, with Republicans feeling little urgency to pass anything before the midterm elections, even as party leaders fret about another presidential race with Hispanics voting in droves against their party. “There is no good time to do it,” Rep. Mike Simpson (R-Idaho) says. “It’s tough no matter when you do it.”

#### 5. Plan has bipart support

AP 13, "Congress looks to limit drone strikes", February 5, www.cbsnews.com/8301-250\_162-57567793/congress-looks-to-limit-drone-strikes/

Uncomfortable with the Obama administration's use of deadly drones, a growing number in Congress is looking to limit America's authority to kill suspected terrorists, even U.S. citizens. The Democratic-led outcry was emboldened by the revelation in a newly surfaced Justice Department memo that shows drones can strike against a wider range of threats, with less evidence, than previously believed.¶ The drone program, which has been used from Pakistan across the Middle East and into North Africa to find and kill an unknown number of suspected terrorists, is expected to be a top topic of debate when the Senate Intelligence Committee grills John Brennan, the White House's pick for CIA chief, at a hearing Thursday.¶ The White House on Tuesday defended its lethal drone program by citing the very laws that some in Congress once believed were appropriate in the years immediately after the Sept. 11 attacks but now think may be too broad.¶ It has to be in the agenda of this Congress to reconsider the scope of action of drones and use of deadly force by the United States around the world because the original authorization of use of force, I think, is being strained to its limits," Sen. Chris Coons, D-Del., said in a recent interview.¶ Rep. Steny Hoyer of Maryland, the No. 2 Democrat in the House, said Tuesday that "it deserves a serious look at how we make the decisions in government to take out, kill, eliminate, whatever word you want to use, not just American citizens but other citizens as well."¶ Hoyer added: "We ought to carefully review our policies as a country."¶ The Senate Foreign Relations Committee likely will hold hearings on U.S. drone policy, an aide said Tuesday, and Chairman Robert Menendez, D-N.J., and the panel's top Republican, Sen. Bob Corker of Tennessee, both have quietly expressed concerns about the deadly operations. And earlier this week, a group of 11 Democratic and Republican senators urged President Barack Obama to release a classified Justice Department legal opinion justifying when U.S. counterterror missions, including drone strikes, can be used to kill American citizens abroad.

#### 7. Reform not key to the economy.

Flynn 13 [Mike Flynn 13, Breitbart reporter, July 13, "White House Oversells Economic Benefits of Immigration Reform," www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform]

On Saturday, President Obama used his weekly radio address to tout the economic benefits of passing the Senate immigration reform bill. On Wednesday, the White House issued a report saying the immigration reform bill would both trim the deficit and boost the economy over the next two decades. Even accepting the Administration's numbers at face-value, the report shows how little would be gained economically from reform in the long-term. In the short-term, however, there are some very real costs ignored by the White House.¶ The White House report draws heavily from a CBO analysis on the economic impact of the Senate bill, released in mid-June. The CBO estimates that, under the Senate bill, in 20 years, the nation's GDP would be $1.4 trillion higher than it otherwise would be if the bill didn't pass. The Administration claims the bill will grow the economy by 5.4% in that time-frame. ¶ Which sounds impressive, until one realizes that we are talking about a 20 year window here. An incremental growth of 5% over two decades isn't exactly an economic bonanza.

In that time-span the US economy will generate $300-500 trillion in total economic impact. An extra few trillion is at the margins or the margins.¶ Worse, the economic benefits the CBO estimates will accrue only begin at least a decade after enactment**.** Through 2031, Gross National Product, which measures the output of US residents and firms, would be lower than it otherwise would be. In ten years, the per capita GNP would be almost 1% lower than without the Senate bill. ¶ The CBO analysis also shows that average wages of American workers would be lower than they otherwise would be through at least the first 10 years of the law's enactment. The unemployment rate would also rise for the first decade, due to a large increase in the labor force.¶ Supporters and opponents of immigration reform both overstate its economic impact. In a nation of more than 300 million people and a $16 trillion economy, any economic impact is going to be felt at the margins. The CBO, however, finds that, for at least a decade, the economic effects of the Senate bill are negative at the margins. After 2 decades, the CBO says the effects become positive at the margin. ¶ A decade of relatively worse economic performance to secure marginally better performance 20 years from now is not an obviously good bargain. One can make many argument in favor of immigration reform. Economic growth, however, seems a very weak one.

## 1AR

### Case

#### AQAP still strong

Roggio 13 (BILL ROGGIO, Senior Fellow at the Foundation for the Defense of Democracies, Hoover Institute Media Fellow, served as a signalman and infantryman in the US Army, Threat Matrix, September 30, 2013, “AQAP fighters storm Yemen Army base in east,” http://www.longwarjournal.org/threat-matrix/archives/2013/09/aqap\_fighters\_storm\_yemen\_army.php#ixzz2pdB2MIv2 //nimo)

Despite losing control of major cities in Abyan and Shabwa province, AQAP is still strong in rural areas of Yemen and is more than capable of both attacking the Yemeni military and plotting against the West. Communications earlier this year between al Qaeda emir Ayman al Zawahiri and Wuhayshi led the US to shut down more than 20 diplomatic facilities across Africa, the Middle East, and Asia.

### Politics

#### Comprehensive study proves no relationship.

Miller 2K [Morris, Adjunct Professor at the University of Ottawa's Faculty of Administration, Interdisciplinary Science Review, v 25 n4]

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth – **bore no relationship to the collapse of regimes** ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).